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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/605,237	06/28/2000	Roy Mauger	476-1928	6163

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EXAMINER

GECKIL, MEHMET B

ART UNIT	PAPER NUMBER
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2142

DATE MAILED: 05/07/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No

09/605,237

Applicant(s)

MAUGER ET AL.

Examiner

Mehmet B. Geckil

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 1-8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4. 6) ☐ Other: _____

1. Claims 1-25 are presented for examination.
2. Applicant should update the status of the co-pending application cited in the specification.
3. Applicant's election with traverse of claims 9-25 in Paper No. 6 is acknowledged. The traversal is on the ground(s) that the first group, i.e., claims 1-8 should be classified along with the second group and thus there is no restriction. This is not found persuasive because as stated in the restriction requirement different groups have different elements and they require different search. For example, both groups include routing but group 2 does not include any virtual private networking features and group 1 does not include any label stack for defining tunnels and resource availability particulars.

The requirement is still deemed proper and is therefore made FINAL.

4. This application contains claims 1-8 drawn to an invention nonelected with traverse in Paper No. 6. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.
5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 9-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chuah et al.

8. Chuah et al (6,408,001) taught the invention substantially as claimed including a communication multi-service network comprising a plurality of nodes interconnected via quality of service capable tunnels and incorporating a frame mode labeled switch (MPLS) architecture (col 6, line 62 et seq), wherein end-to-end communications having a predetermined quality of service (col 7, line 9 et seq) are provided by defining at the network edge a label stack of labels for delivering packets through a sequence of the tunnels defined by the label stack (see col 6, lines 62-67 and col 7, line 1 et seq.)

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9. It would have been obvious to one of ordinary skill in the networking art at the time of the invention that the claimed invention differed from the teachings of Chuah et al only by a degree, e.g., in the claimed label stack of first, second, and third labels. But this is no more than a degree in a difference because it enumerates the labeled stack taught by Chuah et al as label stack of first, second, and third labels. Obviously a stack is defined something more than one, e.g., a stack of papers means a few papers. Stating that the stack includes a first paper and a second paper and a third paper is no more than telling the status of the stack. But stack is still is a stack of more than one something. In the present case Chuah et al taught a label stack having multiple entries. Obviously it includes more than one label (see col 7, line 15 et seq where it mentions all other label stack entries.) Stating label stack of first, second, and third labels does not change the nature of the stack. It is still a label stack of multiple labels. Therefore, the claimed invention differs only by a degree. Other claimed features are all obvious variations of the well known features of MPLS routing (See for example, the papers presented by the applicant as IDS and the European search report detailing two of the papers as X references with pointers to the papers.)

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Goyal et al (6,466,985) taught aggregating separate flows to a tunnel in MPLS by using a label stack by pushing the label stack at the entry of the tunnel, and popping of on exit. As the tunnel end may in effect be multiplexing point and a request including two

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labels (col 6, line 1 et seq.) Also see columns 3 and 11 for a teaching of QoS attributes and RSVP implementations.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mehmet Geckil whose telephone number is (703) 305-9676. The examiner can normally be reached on Monday through Friday from 6:30 A.M. to 3:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Jack Harvey, can be reached on (703) 305-9705. The fax phone numbers for the organization where this application or proceeding is assigned are listed hereinbelow.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3800/4700. Customer service number is (703) 306-5631.

Any response to this action should be mailed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

or faxed to:

(703) 872-9306

Hand-delivered responses should be brought to Crystal Park II, 2021 Crystal Drive, Arlington, VA., Fourth Floor (Receptionist).

5/4/04

MEHMET B. GECKIL
PRIMARY EXAMINER

Mehmet Geckil